

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Eastern District of New York on the following ☒ Patents or ☐ Trademarks:


DOCKET NO. 09cv968(TCP)	DATE FILED March 9, 2009	U.S. DISTRICT COURT Eastern District of New York
PLAINTIFF Four Paws Products LTD.		DEFENDANT Royal Pet Incorporated
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 Des. 368,003	3/19/1996	See Attached Complaint
2 5,601,321	2/11/1997	See Attached Complaint
3 US 7,178,843 B2	2/20/2007	See Attached Complaint
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Robert C. Heinemann	(BY) DEPUTY CLERK 	DATE 3/09/2009
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

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FILED
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U.S. DISTRICT COURT E.D. N.Y.
★ MAR 09 2009

BROOKLYN OFFICE

Attorneys for Plaintiff
Four Paws Products Ltd.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
FOUR PAWS PRODUCTS LTD.,
a New York Corporation,

Plaintiff,

v.

ROYAL PET INCORPORATED,

Defendant.
-----X

09 968
Civil Action No.: _____

PLATT, J.

COMPLAINT

JURY TRIAL DEMANDED

WALL, M.J.

COMPLAINT

Plaintiff Four Paws Products Ltd. ("Four Paws") complains against Defendant Royal Pet Incorporated ("Royal Pet") as follows:

NATURE OF THIS ACTION

1. Plaintiff Four Paws brings this action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This is an action for patent infringement arising under the patent laws of the United States (Title 35 of the United States Code). This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant Royal Pet pursuant to CPLR § 302(a) of the New York State Long-Arm Statute and the U.S. Constitution because Defendant is contracting to supply goods in the State of New York and within this judicial district, and otherwise purposefully avails itself of the benefits of this judicial district.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b-c) and 1400(b).

THE PARTIES

5. Plaintiff Four Paws is a corporation duly organized and existing under the laws of the State of New York with its principal place of business at 50 Wireless Boulevard, Hauppauge, New York 11788.

6. Upon information and belief, Defendant Royal Pet is a corporation having a place of business at 6250 Claude Way East, Inver Grove Heights, MN 55076.

FACTS COMMON TO ALL COUNTS

Plaintiff Four Paws' Patent

7. On March 19, 1996, United States Patent No. Des. 368,003 (the "'003 Design Patent") issued to Allen Simon for an invention entitled "Litter Retriever." A copy of the '003 Design Patent is attached hereto as Exhibit A.

8. On February 11, 1997, United States Patent No. 5,601,321 (the "'321 Patent") issued to Allen Simon for an invention entitled "Litter and Refuse Retrieval Device." A copy of the '321 Patent is attached hereto as Exhibit B.

9. On February 20, 2007, United States Patent No. 7,178,843 (the “’843 Patent”) was duly and legally issued to several named inventors for an invention entitled “LITTER AND REFUSE RETRIEVAL DEVICE.” A copy of the ’843 Patent is attached hereto as Exhibit C.

10. Four Paws has been assigned the entire right, title, and interest in the ’003 Design Patent, the ’321 Patent and the ’843 Patent (collectively, the “Four Paws Patents”), and is therefore the sole owner of the Four Paws Patents.

Defendant Royal Pet Incorporated and Its Infringing Activities

11. Defendant Royal Pet has been manufacturing, distributing, offering for sale, licensing, leasing, and/or selling litter and refuse retrieval devices in this District and throughout the United States.

12. Upon information and belief, Defendant Royal Pet had actual knowledge of the ’843 patent, and knowingly and recklessly disregarded Four Paws’ patent rights in manufacturing, distributing, offering for sale, licensing, leasing, and/or selling litter and refuse retrieval devices.

COUNT I - INFRINGEMENT OF THE ’003 DESIGN PATENT

13. Four Paws repeats and realleges each of the allegations in paragraphs 1 through 12 as if fully set forth herein.

14. Defendant Royal Pet has been and is now directly infringing one or more claims of the ’003 Design Patent by manufacturing, using, selling, licensing, leasing, and/or offering for sale a litter and refuse retrieval device without the authority of Four Paws.

15. The litter and refuse retrieval device is sold as the “Spring Action Scooper,” under the trademark “Spotty.”

16. Defendant Royal Pet has been and is now inducing others to infringe one or more of the claims of the '003 Design Patent through its sales and/or offering for sale of its "Spring Action Scooper," without the authority of Four Paws.

17. Four Paws has, and will be damaged and harmed, by Royal Pet's infringement.

18. Four Paws will be irreparably harmed unless Royal Pet's infringing activities are enjoined.

19. Four Paws has no adequate remedy at law.

COUNT II - INFRINGEMENT OF THE '321 PATENT

20. Four Paws repeats and realleges each of the allegations in paragraphs 1 through 12 as if fully set forth herein.

21. Defendant Royal Pet has been and is now directly infringing one or more claims of the '321 Patent by manufacturing, using, selling, licensing, leasing, and/or offering for sale a litter and refuse retrieval device without the authority of Four Paws.

22. The litter and refuse retrieval device is sold as the "Spring Action Scooper," under the trademark "Spotty."

23. Defendant Royal Pet has been and is now inducing others to infringe one or more of the claims of the '321 Patent through its sales and/or offering for sale of its "Spring Action Scooper," without the authority of Four Paws.

24. Four Paws has, and will be damaged and harmed, by Royal Pet's infringement.

25. Four Paws will be irreparably harmed unless Royal Pet's infringing activities are enjoined.

26. Four Paws has no adequate remedy at law.

COUNT III - INFRINGEMENT OF THE '843 PATENT

27. Four Paws repeats and realleges each of the allegations in paragraphs 1 through 12 as if fully set forth herein.

28. Defendant Royal Pet has been and is now directly infringing one or more claims of the '843 Patent by manufacturing, using, selling, licensing, leasing, and/or offering for sale a litter and refuse retrieval device without the authority of Four Paws.

29. The litter and refuse retrieval device is sold as the "Spring Action Scooper," under the trademark "Spotty."

30. Defendant Royal Pet has been and is now inducing others to infringe one or more of the claims of the '843 Patent through its sales and/or offering for sale of its "Spring Action Scooper," without the authority of Four Paws.

31. Four Paws has, and will be damaged and harmed, by Royal Pet's infringement.

32. Four Paws will be irreparably harmed unless Royal Pet's infringing activities are enjoined.

33. Four Paws has no adequate remedy at law.

PRAYER FOR RELIEF

Four Paws respectfully prays that:

- A. Judgment be entered for Four Paws.
- B. This Court declare that Defendant Royal Pet has infringed the Four Paws Patents.
- C. This Court preliminary and permanently enjoin Defendant Royal Pet, its officers, agents, servants, employees, attorneys, and those persons acting for, with, by, under, in privity with, in active concert with, and in participation with any one of them, from manufacturing, using, selling, licensing, importing, exporting and/or offering for sale the litter and refuse

retrieval device or any product which infringes the Four Paws Patents, and from inducing or contributing to the infringement of the Four Paws Patents.

D. Defendant Royal Pet be ordered to send written notification to its dealers, distributors, and customers for the accused product(s) of its infringing activities, advising of the entry of the injunction and order set forth above, and requiring that the infringing devices still in inventory be returned to Defendant Royal Pet, and that all infringing activities cease.

E. This Court require Defendant Royal Pet to account for and pay over to Four Paws all damages sustained by Four Paws including, but not limited to, a reasonable royalty and/or lost profits due by reason of its infringement, such reasonable royalty and/or lost profits to be based on lost sales.

F. Defendant Royal Pet be required to pay to Four Paws all of its costs and disbursements in this action.

G. The Court award Four Paws treble damages and attorney's fees for willful infringement.

H. This Court declare that Four Paws is entitled to such other and further relief as the Court may deem just, proper, and appropriate.

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury on all issues triable of right, or operation of law, by jury.

Dated: March 9, 2009

Respectfully Submitted,
DARBY & DARBY, P.C.

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